

JOURNAL OF THE HOUSE

NINETIETH SESSION

EIGHTH DAY

STATE OF SOUTH DAKOTA
House of Representatives, Pierre
Friday, January 23, 2015

The House convened at 1:00 p.m., pursuant to adjournment, the Speaker presiding.

The prayer was offered by the Chaplain, Hattie Kauffman, followed by the Pledge of Allegiance led by House page Jill Swanson.

Roll Call: All members present except Reps. Bordeaux, Schrempp, and Werner who were excused.

APPROVAL OF THE JOURNAL

MR. SPEAKER:

The Committee on Legislative Procedure respectfully reports that the Chief Clerk of the House has had under consideration the House Journal of the seventh day.

All errors, typographical or otherwise, are duly marked in the temporary journal for correction.

And we hereby move the adoption of the report.

Respectfully submitted,
Dean Wink, Chair

Which motion prevailed.

HONORED GUESTS

Speaker Wink introduced Hattie Kauffman, Speaker for the 2015 Governor's Prayer Breakfast.

REPORTS OF STANDING COMMITTEES

MR. SPEAKER:

The Committee on State Affairs respectfully reports that it has had under consideration HB 1051 and returns the same with the recommendation that said bill do pass.

Also MR. SPEAKER:

The Committee on State Affairs respectfully reports that it has had under consideration HB 1029 and returns the same with the recommendation that said bill be amended as follows:

1029ca

On page 1, line 8, of the printed bill, remove the overstrikes from ":".

On page 1, line 9, remove the overstrikes from everything before "a" and delete "a".

On page 1, line 10, remove the overstrikes from "in".

On page 1, delete line 11, and insert "effect as of ~~July 1, 2009~~, or earlier if the building was registered or certified November 18, 2013," .

On page 1, remove the overstrikes from line 13.

On page 1, delete line 14, and insert "system as of ~~January 1, 2008~~ July 31, 2013; or".

On page 1, remove the overstrikes from line 15.

On page 2, remove the overstrikes from line 1.

On page 2, remove the overstrikes from line 2 and delete "as of November 18, 2013".

On page 2, line 15, delete "United States Green Building Council" and insert "rating system".

1 And that as so amended said bill do pass.

2 Respectfully submitted,
3 Brian G. Gosch, Chair

4 Also MR. SPEAKER:

5 The Committee on Appropriations respectfully reports that it has had under consideration
6 HB 1021, 1022, 1042, 1049, and 1060 and returns the same with the recommendation that said
7 bills do pass.

8 Also MR. SPEAKER:

9 The Committee on Appropriations respectfully reports that it has had under consideration
10 HB 1057 and returns the same with the recommendation that said bill be amended as follows:

11 1057na

12 On page 1, line 5, of the printed bill, delete "three hundred two" and insert "two hundred
13 sixty thousand dollars (\$260,000),".

14 On page 1, line 6, delete everything before "or" .

15 And that as so amended said bill do pass.

16 Respectfully submitted,
17 Justin R. Cronin, Chair

18 Also MR. SPEAKER:

19 The Committee on Judiciary respectfully reports that it has had under consideration
20 HB 1063 and returns the same with the recommendation that said bill do pass.

21 Also MR. SPEAKER:

22 The Committee on Judiciary respectfully reports that it has had under consideration
23 HB 1061 and 1062 and returns the same with the recommendation that said bills do pass and
24 be placed on the consent calendar.

25 Respectfully submitted,
26 G. Mark Mickelson, Chair

1 Also MR. SPEAKER:

2 The Committee on Commerce and Energy respectfully reports that it has had under
3 consideration HB 1037 and returns the same with the recommendation that said bill do pass.

4 Also MR. SPEAKER:

5 The Committee on Commerce and Energy respectfully reports that it has had under
6 consideration HB 1033, 1034, and 1038 and returns the same with the recommendation that said
7 bills do pass and be placed on the consent calendar.

8 Also MR. SPEAKER:

9 The Committee on Commerce and Energy respectfully reports that it has had under
10 consideration HB 1027 and returns the same with the recommendation that said bill be amended
11 as follows:

12 1027fa

13 On page 6 of the printed bill, delete lines 6 to 11, inclusive, and insert:

14 " Section 6. That chapter 54-4 be amended by adding thereto a NEW SECTION to read as
15 follows:

16 No person employed by a licensee to collect or attempt to collect any debt owed or due or
17 asserted to be owed or due may:

18 (1) Harass, oppress, or abuse a borrower by:

- 19 (a) Using any threat of violence or harm;
20 (b) Publishing a list of names of borrowers who refuse to pay their debts absent
21 providing such information to credit reporting companies;
22 (c) Using obscene or profane language; or
23 (d) Repeatedly using the phone with the intent to annoy borrowers;

24 (2) Use any false statement when attempting to collect a debt by falsely:

- 25 (a) Claiming to be an attorney or government representative;
26 (b) Claiming that the borrower has committed a crime;
27 (c) Representing that the licensee operates or any person employed by the licensee
28 works for a credit reporting company;
29 (d) Representing the amount the borrower owes;
30 (e) Representing the nature and character of any forms sent to the borrower in
31 order to collect a debt;
32 (f) Indicating that the borrower will be arrested if the debt isn't paid;
33 (g) Using a company name;

- 1 (h) Indicating that the licensee will seize, garnish, attach, or sell a borrower's
2 property or wages unless the licensee is permitted by law to take the action and
3 the licensee intend to do so;
4 (i) Indicating that legal action will be taken against the borrower, if doing so
5 would be illegal or if licensee intends does not intend to take the action;
- 6 (3) Give false credit information about the borrower to anyone, including a credit
7 reporting company;
- 8 (4) Attempt to collect any interest, fee, or other charge on top of the amount a borrower
9 owes unless the contract that created the debt or state law allows the charge;
- 10 (5) Deposit a post-dated check early; or
- 11 (6) Take or threaten to take the borrower's property unless it can be done legally."

12 And that as so amended said bill do pass.

13 Respectfully submitted,
14 Tim Rounds, Chair

15 MESSAGES FROM THE SENATE

16 MR. SPEAKER:

17 I have the honor to transmit herewith SB 19, 32, 36, 61, and 68 which have passed the
18 Senate and your favorable consideration is respectfully requested.

19 Respectfully,
20 Kay Johnson, Secretary

21 MOTIONS AND RESOLUTIONS

22 HOUSE PAGE RESOLUTION 1 Introduced by: Representatives Anderson; Bartling;
23 Beal; Bolin; Bordeaux; Brunner; Campbell; Conzet; Craig; Cronin; Deutsch; DiSanto; Dryden;
24 Duvall; Feickert; Gibson; Gosch; Greenfield, Lana; Haggard, Don; Harrison; Haugaard; Hawks;
25 Hawley; Heinemann; Hickey; Holmes; Hunhoff, Jean; Hunt; Jensen, Alex; Johns; Kaiser;
26 Killer; Kirschman; Klumb; Langer; Latterell; Marty; May; McCleerey; Mickelson; Munsterman;
27 Novstrup, Al; Otten, Herman; Partridge; Peterson, Kent; Qualm; Rasmussen; Ring; Romkema;
28 Rounds; Rozum; Russell; Schaefer; Schoenbeck; Schoenfish; Schrempp; Sly; Soli; Solum;
29 Stalzer; Stevens; Tulson; Verchio; Werner; Westra; Wiik; Willadsen; Wink; Wollmann;
30 Zikmund.

1 A RESOLUTION, Expressing the appreciation and gratitude of the House of Representatives
2 of the Ninetieth Legislature of the State of South Dakota to Hailey Block, Emily Dreeszen,
3 Taylor Gaikowski, Robert Hagggar, Peyton Heitkamp, Martee Larson, Austin Lentsch,
4 Morgan Nelson, Marli Scarborough, LaTrisha Schindler, Hattie Seten, Jill Swanson, Ryker
5 Vosberg, Megan Wollmann.

6 WHEREAS, the above named served loyally as pages for the House of Representatives of
7 the Ninetieth Legislative Session; and

8 WHEREAS, the members of the Ninetieth House of Representatives express their most
9 sincere appreciation to these young people for their service to the state; and

10 WHEREAS, the members extend to these young people their wishes for every success in
11 life:

12 NOW, THEREFORE, BE IT RESOLVED, by the House of Representatives of the
13 Ninetieth Legislature of the State of South Dakota, that a personal copy of this resolution be
14 duly certified and furnished to each page on this last day of service.

15 Rep. Bolin moved that House Page Resolution 1 be adopted.

16 Which motion prevailed and the resolution was adopted.

17 Rep. Gosch moved that HCR 1001 be deferred to Monday, January 26, the 9th legislative
18 day.

19 Which motion prevailed.

20 HCR 1002 Introduced by: Representatives Romkema, Anderson, Beal, Bolin, Brunner,
21 Conzet, Cronin, Deutsch, Dryden, Gosch, Hagggar (Don), Harrison, Jensen (Alex), Johns,
22 Klumb, Langer, Marty, Partridge, Peterson (Kent), Qualm, Ring, Rounds, Rozum, Schoenfish,
23 Sly, Solum, Tulson, Verchio, Westra, Willadsen, Wink, and Wollmann and Senators Ewing,
24 Jensen (Phil), Lederman, Monroe, Olson, Omdahl, Otten (Ernie), Peterson (Jim), Rampelberg,
25 Rave, Rusch, Tieszen, and Van Gerpen

26 A CONCURRENT RESOLUTION, Supporting the continued operation of the D.C. Booth
27 Historic National Fish Hatchery.

28 WHEREAS, sport fishing routinely draws more than 268,000 participants in South Dakota
29 annually, constituting an important component of South Dakota's economy, with angler
30 expenditures exceeding \$313 million in 2011; and South Dakota benefited from an estimated
31 \$62 million in salaries, wages, and business owner earnings in 2006, and created 2,500 jobs; and

1 WHEREAS, the South Dakota Department of Game, Fish and Parks received more than
2 \$8.6 million in revenue from the sale of fishing licenses in fiscal year 2014, which represents
3 a significant portion of the agency's budget; and

4 WHEREAS, trout produced in both state and federal hatchery systems and stocked into
5 waters throughout South Dakota is important in maintaining sport fishing and its economic
6 benefits; and

7 WHEREAS, the D.C. Booth Historic National Fish Hatchery produces trout to fill needs for
8 federal, tribal, and state water development projects throughout western South Dakota; and

9 WHEREAS, the D.C. Booth Historic National Fish Hatchery & Archives, established in
10 1896, has stocked waters in western South Dakota, including tribal waters on the Pine Ridge and
11 Rosebud Reservations; and

12 WHEREAS, the D.C. Booth Historic National Fish Hatchery & Archives serves as a key
13 economic contributor to the city of Spearfish, bringing in \$2.1 million annually or a return of
14 \$62 for every \$1 invested; and D.C. Booth is the city's top tourist attraction with over 150,000
15 visitors annually with \$840,000 being spent annually by nonresident visitors who attribute their
16 visits to Spearfish to the D.C. Booth Historic National Fish Hatchery; and

17 WHEREAS, over \$141,000 is brought in annually in local and state tax and fee revenue
18 from the D.C. Booth Historic National Fish Hatchery & Archives; and

19 WHEREAS, the staffing, expertise, resources, and a large portion of the funding for the
20 operation and maintenance of the D.C. Booth Historic National Fish Hatchery & Archives is
21 supplied by the U.S. Fish and Wildlife Service, further benefiting the city of Spearfish and the
22 state of South Dakota; and the existence of D.C. Booth contributes 27 jobs to the area; and

23 WHEREAS, the United States Fish and Wildlife Service recently completed a study
24 predicting that the closure of the D.C. Booth Historic National Fish Hatchery will curtail the
25 stocking of South Dakota's waters, entailing a loss of associated economic benefits; and

26 WHEREAS, the continuation of the D.C. Booth Historic National Fish Hatchery's role as
27 a trout producer, and an educational and tourist facility is extremely important to South Dakota's
28 economy and sport fishing:

29 NOW, THEREFORE, BE IT RESOLVED, by the House of Representatives of the Ninetieth
30 Legislature of the State of South Dakota, the Senate concurring therein, that:

- 31 (1) The South Dakota Legislature supports the continued operation of the D.C. Booth
32 Historic National Fish Hatchery and urges the United States Fish and Wildlife
33 Service, in partnership with the Department of Game, Fish and Parks, to maintain its
34 current mission of stocking South Dakota waters for recreational fishing and the
35 recovery of threatened and endangered species;

1 (2) The South Dakota Legislature supports the operation of the hatchery and adjacent
2 federal lands in a manner that promotes public recreation and scientific research and
3 educational activities; and

4 (3) The South Dakota Legislature urges the Department of Environment and Natural
5 Resources and the Department of Game, Fish and Parks to work with the United
6 States Fish and Wildlife Service to protect the operation of the D.C. Booth Historic
7 National Fish Hatchery; and

8 BE IT FURTHER RESOLVED, that copies of this House Concurrent Resolution be sent to
9 all members of the South Dakota delegation to the United States Congress, the Secretary of the
10 Interior, the Director of the United States Fish and Wildlife Service, and Governor Dennis
11 Daugaard.

12 Was read the first time and the Speaker waived the committee referral.

13 Rep. Gosch moved that the temporary house rules of the Eighty-ninth Legislative Session
14 be made the permanent house rules of the Ninetieth Legislative Session.

15 The question being on Rep. Gosch's motion that the temporary house rules of the Eighty-
16 ninth Legislative Session be made the permanent house rules of the Ninetieth Legislative
17 Session

18 And the roll being called:

19 Yeas 66, Nays 1, Excused 3, Absent 0

20 Yeas:

21 Anderson; Bartling; Beal; Bolin; Brunner; Campbell; Conzet; Craig; Cronin; Deutsch; DiSanto;
22 Dryden; Duvall; Feickert; Gibson; Gosch; Greenfield (Lana); Haggard (Don); Harrison;
23 Haugaard; Hawks; Hawley; Heinemann (Leslie); Hickey; Holmes; Hunhoff (Jean); Hunt; Jensen
24 (Alex); Johns; Kaiser; Killer; Kirschman; Klumb; Langer; Latterell; Marty; May; McCleerey;
25 Mickelson; Munsterman; Novstrup (Al); Otten (Herman); Partridge; Peterson (Kent); Qualm;
26 Rasmussen; Ring; Romkema; Rounds; Rozum; Russell; Schaefer; Schoenfish; Sly; Soli; Solum;
27 Stalzer; Stevens; Tulson; Verchio; Westra; Wiik; Willadsen; Wollmann; Zikmund; Speaker
28 Wink

29 Nays:

30 Schoenbeck

31 Excused:

32 Bordeaux; Schrempp; Werner

33 So the motion having received an affirmative vote of a majority of the members-elect, the
34 Speaker declared the motion carried.

1 **CONSIDERATION OF REPORTS OF COMMITTEES**

2 Rep. Gosch moved that the reports of the Standing Committees on
3 Health and Human Services on HB 1013 as found on page 78 of the House Journal; also
4 Transportation on HB 1020 as found on page 79 of the House Journal be adopted.
5 Which motion prevailed.

6 **CONSIDERATION OF REPORTS OF JOINT-SELECT COMMITTEES**

7 Rep. Gosch moved that the report of the Joint-Select Committee relative to the Joint Rules
8 for the Ninetieth Legislative Session as found on pages 79 - 82 of the House Journal be adopted.

9 The question being on Rep. Gosch's motion that the report of the Joint-Select Committee
10 relative to the Joint Rules for the Ninetieth Legislative Session as found on pages 79 - 82 of the
11 House Journal be adopted.

12 And the roll being called:

13 Yeas 67, Nays 0, Excused 3, Absent 0

14 Yeas:

15 Anderson; Bartling; Beal; Bolin; Brunner; Campbell; Conzet; Craig; Cronin; Deutsch; DiSanto;
16 Dryden; Duvall; Feickert; Gibson; Gosch; Greenfield (Lana); Haggard (Don); Harrison;
17 Haugaard; Hawks; Hawley; Heinemann (Leslie); Hickey; Holmes; Hunhoff (Jean); Hunt; Jensen
18 (Alex); Johns; Kaiser; Killer; Kirschman; Klumb; Langer; Latterell; Marty; May; McCleerey;
19 Mickelson; Munsterman; Novstrup (Al); Otten (Herman); Partridge; Peterson (Kent); Qualm;
20 Rasmussen; Ring; Romkema; Rounds; Rozum; Russell; Schaefer; Schoenbeck; Schoenfish; Sly;
21 Soli; Solum; Stalzer; Stevens; Tulson; Verchio; Westra; Wiik; Willadsen; Wollmann; Zikmund;
22 Speaker Wink

23 Excused:

24 Bordeaux; Schrempp; Werner

25 So the motion having received an affirmative vote of a majority of the members-elect, the
26 Speaker declared the motion carried.

1 **FIRST READING OF HOUSE BILLS AND JOINT RESOLUTIONS**

2 HB 1076 Introduced by: Representatives Stevens, Haugaard, Hunt, Johns, and Verchio and
3 Senators Rusch, Omdahl, and Van Gerpen

4 FOR AN ACT ENTITLED, An Act to permit the submission of a title insurance policy in
5 lieu of an abstract in certain instances.

6 Was read the first time and referred to the Committee on Judiciary.

7 HB 1077 Introduced by: Representatives Stevens, Haugaard, Hunt, Johns, and Verchio and
8 Senators Van Gerpen and Omdahl

9 FOR AN ACT ENTITLED, An Act to require parental approval to waive a school
10 counselor privilege regarding a student under sixteen.

11 Was read the first time and referred to the Committee on Education.

12 HB 1078 Introduced by: Representatives Stevens, Gibson, Gosch, and Johns and Senators
13 Rusch and Tieszen

14 FOR AN ACT ENTITLED, An Act to adopt the South Dakota Nonprofit Corporation Act.

15 Was read the first time and referred to the Committee on State Affairs.

16 HB 1079 Introduced by: Representatives Stalzer, Beal, Campbell, Craig, Deutsch, DiSanto,
17 Greenfield (Lana), Haggard (Don), Haugaard, Heinemann (Leslie), Hunt, Johns, Kirschman,
18 Klumb, Latterell, Marty, May, Novstrup (Al), Peterson (Kent), Qualm, Ring, Rozum, Schaefer,
19 Schoenbeck, Schoenfish, Tulson, Verchio, Wiik, Willadsen, Wollmann, and Zikmund and
20 Senators Jensen (Phil), Curd, Ewing, Greenfield (Brock), Haggard (Jenna), Lederman, Monroe,
21 Novstrup (David), Olson, Omdahl, and Peterson (Jim)

22 FOR AN ACT ENTITLED, An Act to revise the deadline for the Department of Health's
23 annual report regarding abortions.

24 Was read the first time and referred to the Committee on Health and Human Services.

25 HB 1080 Introduced by: Representatives Heinemann (Leslie), Deutsch, Hickey,
26 Munsterman, and Stalzer and Senator Curd

27 FOR AN ACT ENTITLED, An Act to authorize the use of investigational treatments for
28 patients under certain conditions and to restrict certain causes of action arising from
29 investigational treatment.

1 Was read the first time and referred to the Committee on Health and Human Services.

2 HB 1081 Introduced by: Representatives Jensen (Alex), Brunner, Cronin, and Kirschman
3 and Senators Olson, Ewing, and Peterson (Jim)

4 FOR AN ACT ENTITLED, An Act to repeal certain provisions regarding county officials
5 and the board of county commissioners.

6 Was read the first time and referred to the Committee on Local Government.

7 HB 1082 Introduced by: Representatives Kaiser, Brunner, Greenfield (Lana), Kirschman,
8 Latterell, May, Qualm, Schrempp, Soli, Stalzer, Verchio, and Wollmann and Senators
9 Greenfield (Brock) and Olson

10 FOR AN ACT ENTITLED, An Act to allow a law enforcement officer to issue a citation
11 without a notary.

12 Was read the first time and referred to the Committee on Judiciary.

13 HB 1083 Introduced by: Representatives Kaiser, Beal, Bolin, Bordeaux, Campbell, Craig,
14 Deutsch, DiSanto, Feickert, Gibson, Gosch, Greenfield (Lana), Haggar (Don), Harrison, Hawks,
15 Heinemann (Leslie), Hickey, Hunhoff (Jean), Jensen (Alex), Johns, Kirschman, Klumb, Langer,
16 Latterell, Marty, May, McCleerey, Mickelson, Munsterman, Novstrup (Al), Peterson (Kent),
17 Qualm, Rasmussen, Ring, Rounds, Russell, Schaefer, Schoenbeck, Schoenfish, Schrempp, Soli,
18 Stalzer, Tulson, Verchio, Wiik, Willadsen, Wollmann, and Zikmund and Senators Greenfield
19 (Brock), Ewing, Haggar (Jenna), Heinert, Holien, Lederman, Novstrup (David), Olson, Peterson
20 (Jim), Rave, and Solano

21 FOR AN ACT ENTITLED, An Act to require reimbursement to certain entities for fire
22 suppression and extinguishment costs.

23 Was read the first time and referred to the Committee on Judiciary.

24 HB 1084 Introduced by: Representatives Rounds, Bartling, Deutsch, Feickert, Harrison,
25 Kirschman, Novstrup (Al), Wiik, and Zikmund and Senators Novstrup (David), Curd, Ewing,
26 Rampelberg, Sutton, and White

27 FOR AN ACT ENTITLED, An Act to expand collateral eligible to be pledged as security
28 for public deposits.

29 Was read the first time and referred to the Committee on Commerce and Energy.

1 HB 1085 Introduced by: Representatives Otten (Herman) and Hawks and Senators Holien,
2 Ewing, and Heinert

3 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the requirement
4 for performance securities.

5 Was read the first time and referred to the Committee on Commerce and Energy.

6 HB 1086 Introduced by: Representatives Hickey, Bolin, DiSanto, Haggar (Don), Haugaard,
7 Kaiser, Kirschman, Mickelson, Munsterman, Novstrup (Al), Qualm, Ring, Rounds,
8 Schoenbeck, Stalzer, Verchio, Westra, Willadsen, Wink, and Zikmund and Senators Greenfield
9 (Brock), Haggar (Jenna), Holien, Jensen (Phil), Lederman, Novstrup (David), Olson, Omdahl,
10 and Vehle

11 FOR AN ACT ENTITLED, An Act to establish the Economic Contingencies Work Group
12 to ascertain the effects of a significant and extended national economic crisis on South Dakota.

13 Was read the first time and referred to the Committee on State Affairs.

14 HB 1087 Introduced by: Representatives Partridge, Gibson, Haugaard, Hunt, Johns,
15 Latterell, Mickelson, Peterson (Kent), Schoenbeck, and Stevens and Senators Rampelberg,
16 Ewing, Hunhoff (Bernie), Omdahl, Peters, Vehle, and White

17 FOR AN ACT ENTITLED, An Act to authorize trust protectors to be a party to a legal
18 action to remove trustees or pursue legal action for and on behalf of trusts.

19 Was read the first time and referred to the Committee on Judiciary.

20 HB 1088 Introduced by: Representatives Willadsen, Harrison, Hawley, Mickelson, Rounds,
21 Schoenbeck, Wollmann, and Zikmund and Senators Greenfield (Brock), Brown, Lederman,
22 Novstrup (David), Parsley, Rampelberg, and Sutton

23 FOR AN ACT ENTITLED, An Act to permit procurement of certain disability insurance
24 from a non-admitted insurer.

25 Was read the first time and referred to the Committee on Commerce and Energy.

26 The Speaker declared that HB 1075 was withdrawn at the request of the prime sponsor
27 pursuant to Joint Rule 6B-1.1.

1 **FIRST READING OF SENATE BILLS AND JOINT RESOLUTIONS**

2 SB 19: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding
3 references to the Internal Revenue Code.

4 Was read the first time and referred to the Committee on Taxation.

5 SB 32: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding veteran's
6 preference for all veterans who are United States citizens who seek employment with the state,
7 a county, or a municipality.

8 Was read the first time and referred to the Committee on State Affairs.

9 SB 36: FOR AN ACT ENTITLED, An Act to repeal certain outdated and unnecessary
10 statutes and to update certain references related to the Department of Tourism.

11 Was read the first time and referred to the Committee on State Affairs.

12 SB 61: FOR AN ACT ENTITLED, An Act to place certain substances on the controlled
13 substances schedule and to declare an emergency.

14 Was read the first time and referred to the Committee on Health and Human Services.

15 SB 68: FOR AN ACT ENTITLED, An Act to provide for a random sampling of
16 nominating petition signatures for statewide offices.

17 Was read the first time and referred to the Committee on State Affairs.

18 **SECOND READING OF CONSENT CALENDAR ITEMS**

19 HB 1016: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding
20 references for auditing standards used by the Department of Revenue.

21 Was read the second time.

22 The question being "Shall HB 1016 pass?"

23 And the roll being called:

24 Yeas 67, Nays 0, Excused 3, Absent 0

1 Yeas:

2 Anderson; Bartling; Beal; Bolin; Brunner; Campbell; Conzet; Craig; Cronin; Deutsch; DiSanto;
3 Dryden; Duvall; Feickert; Gibson; Gosch; Greenfield (Lana); Hagggar (Don); Harrison;
4 Haugaard; Hawks; Hawley; Heinemann (Leslie); Hickey; Holmes; Hunhoff (Jean); Hunt; Jensen
5 (Alex); Johns; Kaiser; Killer; Kirschman; Klumb; Langer; Latterell; Marty; May; McCleerey;
6 Mickelson; Munsterman; Novstrup (Al); Otten (Herman); Partridge; Peterson (Kent); Qualm;
7 Rasmussen; Ring; Romkema; Rounds; Rozum; Russell; Schaefer; Schoenbeck; Schoenfish; Sly;
8 Soli; Solum; Stalzer; Stevens; Tulson; Verchio; Westra; Wiik; Willadsen; Wollmann; Zikmund;
9 Speaker Wink

10 Excused:

11 Bordeaux; Schrempp; Werner

12 So the bill having received an affirmative vote of a majority of the members-elect, the
13 Speaker declared the bill passed and the title was agreed to.

14 HB 1017: FOR AN ACT ENTITLED, An Act to repeal certain outdated and unnecessary
15 provisions related to the Department of Revenue.

16 Was read the second time.

17 The question being "Shall HB 1017 pass?"

18 And the roll being called:

19 Yeas 67, Nays 0, Excused 3, Absent 0

20 Yeas:

21 Anderson; Bartling; Beal; Bolin; Brunner; Campbell; Conzet; Craig; Cronin; Deutsch; DiSanto;
22 Dryden; Duvall; Feickert; Gibson; Gosch; Greenfield (Lana); Hagggar (Don); Harrison;
23 Haugaard; Hawks; Hawley; Heinemann (Leslie); Hickey; Holmes; Hunhoff (Jean); Hunt; Jensen
24 (Alex); Johns; Kaiser; Killer; Kirschman; Klumb; Langer; Latterell; Marty; May; McCleerey;
25 Mickelson; Munsterman; Novstrup (Al); Otten (Herman); Partridge; Peterson (Kent); Qualm;
26 Rasmussen; Ring; Romkema; Rounds; Rozum; Russell; Schaefer; Schoenbeck; Schoenfish; Sly;
27 Soli; Solum; Stalzer; Stevens; Tulson; Verchio; Westra; Wiik; Willadsen; Wollmann; Zikmund;
28 Speaker Wink

29 Excused:

30 Bordeaux; Schrempp; Werner

31 So the bill having received an affirmative vote of a majority of the members-elect, the
32 Speaker declared the bill passed and the title was agreed to.

1 HB 1019: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding
2 exemptions from sales and use taxation of farm machinery, attachment units, and irrigation
3 equipment used exclusively for agricultural purposes.

4 Was read the second time.

5 The question being "Shall HB 1019 pass?"

6 And the roll being called:

7 Yeas 67, Nays 0, Excused 3, Absent 0

8 Yeas:

9 Anderson; Bartling; Beal; Bolin; Brunner; Campbell; Conzet; Craig; Cronin; Deutsch; DiSanto;
10 Dryden; Duvall; Feickert; Gibson; Gosch; Greenfield (Lana); Haggard (Don); Harrison;
11 Haugaard; Hawks; Hawley; Heinemann (Leslie); Hickey; Holmes; Hunhoff (Jean); Hunt; Jensen
12 (Alex); Johns; Kaiser; Killer; Kirschman; Klumb; Langer; Latterell; Marty; May; McCleerey;
13 Mickelson; Munsterman; Novstrup (Al); Otten (Herman); Partridge; Peterson (Kent); Qualm;
14 Rasmussen; Ring; Romkema; Rounds; Rozum; Russell; Schaefer; Schoenbeck; Schoenfish; Sly;
15 Soli; Solum; Stalzer; Stevens; Tulson; Verchio; Westra; Wiik; Willadsen; Wollmann; Zikmund;
16 Speaker Wink

17 Excused:

18 Bordeaux; Schrempp; Werner

19 So the bill having received an affirmative vote of a majority of the members-elect, the
20 Speaker declared the bill passed and the title was agreed to.

21 HB 1031: FOR AN ACT ENTITLED, An Act to repeal certain provisions regarding former
22 state-owned rail lines.

23 Was read the second time.

24 The question being "Shall HB 1031 pass?"

25 And the roll being called:

26 Yeas 67, Nays 0, Excused 3, Absent 0

1 Yeas:

2 Anderson; Bartling; Beal; Bolin; Brunner; Campbell; Conzet; Craig; Cronin; Deutsch; DiSanto;
3 Dryden; Duvall; Feickert; Gibson; Gosch; Greenfield (Lana); Haggard (Don); Harrison;
4 Haugaard; Hawks; Hawley; Heinemann (Leslie); Hickey; Holmes; Hunhoff (Jean); Hunt; Jensen
5 (Alex); Johns; Kaiser; Killer; Kirschman; Klumb; Langer; Latterell; Marty; May; McCleerey;
6 Mickelson; Munsterman; Novstrup (Al); Otten (Herman); Partridge; Peterson (Kent); Qualm;
7 Rasmussen; Ring; Romkema; Rounds; Rozum; Russell; Schaefer; Schoenbeck; Schoenfish; Sly;
8 Soli; Solum; Stalzer; Stevens; Tulson; Verchio; Westra; Wiik; Willadsen; Wollmann; Zikmund;
9 Speaker Wink

10 Excused:

11 Bordeaux; Schrempp; Werner

12 So the bill having received an affirmative vote of a majority of the members-elect, the
13 Speaker declared the bill passed and the title was agreed to.

14 SECOND READING OF HOUSE BILLS AND JOINT RESOLUTIONS

15 Rep. Gosch moved that the balance of the calendar including HB 1018 and 1012 and SB 28
16 be deferred to Monday, January 26, the 9th legislative day.

17 Which motion prevailed.

18 COMMEMORATIONS

19 HC 1005 Introduced by: Representatives Romkema and Johns and Senator Ewing

20 A LEGISLATIVE COMMEMORATION, Honoring Paul Young of Spearfish as the 2014
21 winner of the South Dakota Municipal League Excellence in Municipal Government Award.

22 WHEREAS, Paul Young is an outstanding elected leader in municipal government, and is
23 not only an asset to his municipality, but to all municipalities in the State of South Dakota; and

24 WHEREAS, Paul Young is a strong advocate for safe and efficient government, providing
25 an example of leadership, commitment, volunteerism, and giving back to one's community; and

26 WHEREAS, Paul Young has expanded his service to all municipalities of South Dakota;
27 and

28 WHEREAS, Paul Young has dedicated his time to the economic well-being and
29 development of his community:

1 NOW, THEREFORE, BE IT COMMEMORATED, by the Ninetieth Legislature of the State
2 of South Dakota, that Paul Young be recognized for winning the Excellence in Municipal
3 Government Award.

4 Rep. Anderson moved that the House do now adjourn, which motion prevailed and at
5 1:36 p.m. the House adjourned.

6 Arlene Kvislen, Chief Clerk

7 Pursuant to the Joint-Select Committee Report found on page 13 of the House Journal, the
8 following is Chief Justice David Gilbertson's State of the Judiciary Message:

9 **STATE OF THE JUDICIARY MESSAGE**
10 **JANUARY 2015**
11 **DAVID GILBERTSON**
12 **CHIEF JUSTICE**

13 Governor Dugaard, Lieutenant Governor Michels, members of the Legislature,
14 Constitutional Officers, my fellow Justices, Judges, Unified Judicial System (UJS) employees,
15 and all citizens of the State of South Dakota.

16 These are exciting times. In its 125th year, this state's judicial system, officially known as
17 the Unified Judicial System, continues to move forward on many fronts. Some projects are well
18 on their way to successful completion. Others, such as the 2013 criminal justice reforms and the
19 rural attorney recruitment program, enjoyed their first full year of existence.

20 For projects to succeed we need three things: (1) a solid plan; (2) a solid team; and, (3) the
21 expertise to deal with the challenge. I believe the UJS possesses all three. This is a far cry from
22 the observation of the political humorist Will Rogers on the performance of a previous
23 President, "the country wanted nothing done and he done it." Clearly the citizens of South
24 Dakota want problems addressed and the UJS is honored to do so.

25 **ALTERNATIVE SENTENCING PROGRAMS**

26 Alcohol and drug addiction are not among the list of items kids ask for on their birthday
27 wish list. "Addiction" is also not on the bucket list of things people want to do before they die,
28 just to experience it. While addiction is not forced upon a person, neither is addiction a
29 knowing, voluntary and intelligent choice at the beginning of that sad path. To address addiction
30 one DUI Court graduate noted, "You don't get sober without divine intervention. My divine
31 intervention showed up in a squad car."

32 The notion that the state can jail itself out of addiction problems has proved untenable. We
33 now have 18 months of experience under the new concepts which are generically referred to as
34 "alternative sentencing." A brief review of why they were enacted is helpful.

A December 2013 study by the PEW Foundation showed that from 2007 through 2012 South Dakota's crime rate rose at a greater rate than any other state in the nation. This statistic is more alarming when one considers that only five of the 50 states experienced any increase in their crime rate; 45 states did not. Of the five states experiencing an increase, South Dakota had the dubious distinction of leading the list with a 20% increase. At the same time, we tied with Alabama for having the fourth largest percentage increase in prison population. This increase was five percent and is a clear validation that more people in prison does not equal less crime outside of prison. What South Dakota proponents for alternative sentencing had been advocating since our first drug court program started in 2008 was verified statistically by numbers showing that South Dakota was heading for a financial cliff.

The "Crime in South Dakota" report for 2013 informed us that drug arrests were up 40% from the previous year and drug use had a ripple effect on other areas of crime. Aaron McGowan, State's Attorney for Minnehaha County, said, "In my experience, roughly 70 to 80 percent of our serious crime is chemically propelled. This includes illegal drugs, prescription drug abuse, and alcohol abuse."

Drug and DUI Courts continue to expand since this Legislature passed the Public Safety Improvement Act in 2013. Our history is a positive one in the area of expansion:

YEAR	CLIENTS SERVED
FY08	6
FY09	18
FY10	22
FY11	29
FY12	78
FY13	49
FY14	100
Total	302

From FY08 to FY14, 302 clients have been accepted statewide by South Dakota Drug and DUI Courts. These are not just mere numbers. Had all of these people gone directly to the penitentiary, the cost to the state would have been substantial because of direct incarceration costs, DSS costs to support the children due to the inmate's incarceration, and health care costs. In FY14, the taxpayers were saved the expense of 55,000 potential prison days which were sentenced by a judge, but never served by the addict or paid for by taxpayers. If one calculates that figure times the estimated cost of \$62.50 per day for penitentiary incarceration there is a potential savings of nearly three and one-half million dollars in just FY14 alone because of Drug and DUI Courts. In 2013, 247 children were not placed with DSS because of their parent's alternative sentence. The average cost for each placement with DSS, assuming no special needs, is \$10,000 per year, per child.

Last June I spoke at the first DUI Court graduation in Aberdeen. Prior to graduation, I had the opportunity to privately visit with and get to know the three graduates. Each of them told their life's story. One looked me in the eye and blurted out, "If it were not for this program, I would be dead by now." Another graduate said, "This program has given me the tools to be an

example for my family instead of an embarrassment." Another graduate commented, "Drug Court teaches you to live in society and stay clean. Prison cannot do that."

It is clear their life experiences along with successful participation in this program have provided them with hard-earned profound knowledge to now succeed in life. This is not a "get out of jail free" card; it is the law of the second chance, but nevertheless a criminal law with serious consequences for failure in the program. These successful graduates are proof that our programs not only save money, and reduce the crime rate; they instill a sense of personal responsibility. These individuals are now examples of the observation of President Reagan that "we must reject the idea that every time a law's broken, society is guilty rather than the lawbreaker. It is time to restore the American precept that each individual is accountable for his actions."

While our current programs show positive signs of success, they do not guarantee total or immediate success. A person is not weaned from addiction to drugs or alcohol overnight. However, to continue to do "business as usual" as we had done prior to the passage of Public Safety Improvement Act was a guarantee of continued expensive failure. We also can draw from the experience of dozens of other states that have lowered their crime rate while reducing their cost of corrections by alternative sentencing.

The 2014 report of the Public Safety Improvement Act Oversight Council sums up a significant benefit to South Dakota from the enactment of the Act: "Had the Public Safety Improvement Act not occurred, the forecast for South Dakota would be significantly different. The state would be in the process of building two new prisons." The estimated cost is a quarter of a billion dollars which is not being spent.

VETERANS COURT

Several thousand years ago, the Biblical prophet, Isaiah, asked: "Whom shall I send? And who will go for us?" Back came the response which is fitting to those who are in our all-volunteer military services, "Here am I. Send me." We send them to defend us in harm's way and put their lives on the line for us.

Since 1990 veterans have returned to us in large numbers. President Lincoln defined our obligation to them in his Second Inaugural Address. It is our duty "to care for him who shall have borne the battle..."

For all too many veterans the stress of combat was not left behind, but brought home. It is a constant companion which sadly affects their lives. For some, it brings them into our criminal justice system through self-medication by the abuse of alcohol or drugs. It also manifests itself through assaults, DUI's, or domestic violence.

Unless we successfully address the underlying problem instead of only the criminal charge, we accomplish nothing more than warehousing people for a period of time in jail. They are released untreated to repeat the same, sad cycle. This is not a battle they win.

On July 7, 2014, Codington County became the first county in South Dakota to implement a Veterans Court. Circuit Judge Robert Timm leads a dedicated group of volunteers who seek to successfully provide treatment to the veteran who has come into our court system.

Participation in the program is voluntary. If accepted into the program, the veteran agrees to a regimen which includes a weekly appearance in court, frequent meetings with Court Service Officers, and compliance with a Veterans Administration plan of treatment. To provide this treatment we have partnered with the South Dakota Veterans Administration which has been enthusiastic about fully participating in the project.

At the completion of the program we hope the veterans will be able to put behind the demons that came home with them. At the end of the Civil War, Lincoln said, "Thank God I have lived to see this day. It seems to me that I have been dreaming a horrid dream for four years and now the nightmare is gone." Hopefully veterans who complete our program will be able to say the same.

We hope to use the Codington County program as a model for implementing Veterans Courts in the rest of the state. As I mentioned earlier, 2014 was the 125th anniversary of South Dakota and its judicial system. What better way to commemorate this anniversary than with a program such as this? It is better than a statue, plaque or other inanimate object. It is a living memorial. To make a long story short, as was said two thousand years ago, "Their sins and lawless deeds I will remember no more."

THE HOPE PROGRAM

Drug and Alcohol Courts require a treatment component that is not always available in rural areas of South Dakota. Yet, drug and alcohol problems are as serious there as in our urban areas. To address this rural problem we piloted a HOPE Program in the Walworth County area this year. It has gotten off to an excellent start. Eighteen people are enrolled in the program. Each faced prison time for drug offenses or other felonies which were the result of drug use. After an evaluation, the participants accepted into the program are required to call in each day to find out if they are subject to random testing that day. Failure to show up for testing or testing "dirty" results in jail time to reinforce the negative consequences of failure to follow the rules of the program. Participants are also heavily monitored by a specially trained Court Services Officer.

To date we have had three people successfully complete the program. All spoke highly of the value of the program to their personal lives. Circuit Judge Scott Myren, who originated the program, wryly told me it is a "low dollar deal." Beyond the UJS personnel, the only cost to the state is the minimal drug testing costs. Thus, 18 people who would have been in the penitentiary at taxpayer expense are instead remaining in their home community and participating in this program. In fiscal year 2015 we will expand the HOPE Program into the Aberdeen, Sioux Falls, and Winner areas.

JUVENILE JUSTICE REINVESTMENT INITIATIVE

There is a certain comfort level when you proceed with a plan that worked in the past. At a minimum it takes some of the uncertainty out of the situation. As we know, all three branches

of South Dakota state government plus many distinguished South Dakotans came together to address the problem of alternative sentencing for adults. With that planning process successfully behind us and the programs authorized by the Public Safety Improvement Act up and running, the same study process is looking at how we deal with juveniles in our court system. All three branches of state government are cooperating in this endeavor. There is a saying that if you are driving down the road and see a turtle on top of a fence post, you know it got there with some help. The goals are the same as we had with adults in the Pubic Safety Improvement Act - to hold youthful offenders more accountable, improve public safety, and save the taxpayers money.

We have the second highest per capita commitment rate of juveniles of any state in the nation. For too long our circuit judges have had two alternatives, either place the juvenile on probation, which may not give sufficient oversight, or place the juvenile in a state institution, a drastic alternative. There is no middle ground especially in the rural areas of this state. A year at the STAR Academy in Custer, South Dakota for one juvenile exceeds the cost of housing three adults for that year in maximum security in our penitentiary. We are hopeful that the state-wide implementation of the Juvenile Detention Alternatives Initiative (JDAI) is a promising start in the reduction of these high numbers.

With all the branches of government and other experts combining their experience and foresight we can produce a proposal which merits serious consideration.

PROBATION

In 2014, the UJS experienced the most significant increase in supervision of persons placed on felony probation in its history. During this year the number of people supervised at some time during the year climbed to 7,148.

The numbers for the past five years provide an interesting picture. Compare the number of people on probation who were sent to the penitentiary for a serious violation of probation with those who either successfully completed or remained on probation:

FELONS ON PROBATION	% SENT TO THE PENITENTIARY
FY10 4824	7.0%
FY11 5130	5.8%
FY12 5307	5.2%
FY13 5892	4.4%
FY14 7148	4.4%

The number of people under felony probation this past year increased by over 1,250. With the additional resources provided by the Governor and Legislature we were able to hold the revocation rate to the same rate as the year before - - an all-time low of 4.4%. We were also able to continue to provide the taxpayers with not only effective, but cost-effective supervision at a cost of \$3.00 per day per probationer. The cost of penitentiary incarceration is about \$62.50 per day.

THE SILVER TSUNAMI

On the portico of the United States Supreme Court building are carvings of history's great law givers. Central is Moses holding the Ten Commandments. The Fifth Commandment is "honor thy Father and thy Mother."

On July 24, 2014, a headline in our largest state newspaper read, "Guilty plea: Theft from grandmother [of \$62,000]." The grandmother was 89 and suffered from dementia. One might think this sad, but unusual. Unfortunately national experts tell us the only thing unusual about this case is that the thief got caught. Most abuse of the elderly, whether it be physical, emotional, or financial goes unreported. In fact, only one in fourteen cases are reported nationally when it occurs in a domestic setting. While we see television commercials showing an anonymous criminal preying on a senior over the telephone or internet, sadly 90% of these crimes are perpetrated by someone within the victim's family. Often a victim can be abused in more than one manner. This is not just a family dispute over family funds. We must recognize it for what it is -- felony theft. As to physical abuse, it is also a crime and may also be a felony. A federal study concluded that elder abuse can occur in any community and involve seniors in any socioeconomic, racial, or ethnic group. Two-thirds of the victims are women.

This issue has been called the "Silver Tsunami." If so, this is only the first wave. Several factors combine to result in a growing problem. The most obvious is the number of senior citizens is increasing. By 2025 there will be more Americans over the age of 65 than in grade school. Not only are there more of us, but we are living longer. When Social Security was implemented in the 1930's the retirement age of 65 was selected because the life expectancy was only 66. I would guess today that most adult South Dakotans know at least one person who has reached the age of 100.

In former decades seniors moved in with their adult children. The family home commonly housed three generations. Now a senior may not have a spouse or any adult children. If there are adult children, they may live anywhere in the world instead of next door. This situation is due to increased mobility, divorce, declining birth rates, increased life spans, and other factors which have done away with the family stability of former years.

There are many factors fueling the rapid increase in financial crime against seniors. Seniors are the fastest growing segment of our population and are "where the money is." This generation is known as a trusting generation. There is a lack of oversight for seniors who either live at home, are assisted by a paid caregiver, or who live in a long-term care facility. There is no cure for diseases of the brain such as Alzheimer's. Moreover, often the thief or abuser is the caregiver and the senior is worried about losing independence by the caregiver's arrest because it could result in the senior being placed in a nursing home for lack of an alternative.

It is not my purpose to bash caregivers. The vast majority do their job in a compassionate and honest manner. My father was able to avoid nursing home care for many years solely because of a dedicated individual who cared for him to the end of his life.

In an effort to determine more accurately if South Dakota has a problem in this area and if so, to what extent, a few years ago I polled South Dakota's judges to find out their experiences with senior abuse. About half of the judges identified the issue as "rare" or "only see about one

1 case a year." However, the other half indicated they had seen instances of improper management
2 of assets by guardians, personal representatives of an estate, joint tenants, a relative, a family
3 friend, a power of attorney, or an attorney-at-law. One judge mentioned concern over improper
4 solicitation of incapacitated seniors for what were purported to be "religious contributions."
5 Another judge described the abuse she had witnessed as "horrendous." Yet another mentioned
6 a power of attorney "improperly cleaned her out in 60 days - \$400,000." One judge sadly
7 concluded, "Blood is thicker than water. Money is thicker than blood." If there is good news in
8 the survey it is that none of the judges saw evidence of physical abuse of the seniors who came
9 before them. However, judges cautioned that if a senior had been physically abused, it was
10 highly unlikely that the perpetrator would bring the senior into the courtroom. Several judges
11 added they saw more of this type of misconduct when they were practicing law than after they
12 became a judge. The bottom line is that the abuse of seniors exists in South Dakota although
13 the extent of the abuse is unknown.

14 This issue is a major cause of concern for all of us. It is worthy of a partnership between
15 the three branches of this government similar to what we did to secure the passage of the Public
16 Safety Improvement Act. The problem needs to be addressed in a coordinated, not piecemeal,
17 manner. The Unified Judicial System stands ready to work on such a project.

18 THE RURAL ATTORNEY PROJECT

19 For a town to survive, it must maintain a certain infrastructure. This is more than churches,
20 schools, grain elevators, and places of business. Those by themselves are simply buildings. It
21 is the ability of the community to provide its citizens and those who live near it with the basic
22 services to maintain the community as a community. This infrastructure is maintained and
23 enhanced by the presence of an attorney or attorneys in the community. All too many of our
24 towns once provided legal services but these services have withered with the passage of the
25 years. A partnership of the three branches of this government seeks to restore legal services to
26 many rural communities in South Dakota. The South Dakota Rural Attorney Recruitment
27 Program has been in effect for a little over a year. I am very pleased with the results.

28 The Rural Attorney Recruitment Program was authorized by this Legislature. It seeks to
29 assist rural counties in South Dakota that need access to local attorneys and to assist an attorney
30 in locating in that county. It is a partnership between a county, the state, and the State Bar of
31 South Dakota by providing a five-year program of financial incentives to an attorney who
32 locates in an eligible rural county. It reminds me of a day when a friend of mine and I were
33 watching an eagle majestically flying over our lake. My friend commented the eagle was able
34 to fly in such a glorious manner because its wings worked together.

35 May 7, 2014, was a monumental day for the program. On that day Jake Fisher became the
36 first attorney, not only in South Dakota, but in the nation, to enroll in such a program by
37 opening a law office in Corsica. This came about through the cooperation of Corsica's
38 Development Corporation and the Douglas County Commissioners. Jake was raised on a farm
39 near Corsica but had gone to law school in Minnesota and practiced law in the Minneapolis
40 area. The bill you passed allowed him to "come home" with his family and set up a law practice
41 for his friends and neighbors in the Corsica area.

To date, six counties have taken advantage of the program and now enjoy the benefits of the program. They are Douglas, Lyman, Hand, Haakon, Tripp, and Perkins counties. Eight attorneys are involved. Four are men; four are women. Other counties have shown interest and we are attempting to match each geographical area with a law student at the University of South Dakota School of Law or elsewhere. A few months ago, my staff and I met with 21 first and second year law students. They all had an interest in a rural law practice and their geographical interests covered virtually every portion of South Dakota.

The Supreme Court is charged with administration of this program. We are willing to make on-site visits with an interested county and set up a meeting between that county's commission and law students who may be interested in that locale. We still see some of the same reluctance you would find at a junior high dance - - the boys on one side, the girls on the other, and nobody quite sure how to make the first move.

We stress the program is of limited duration and that after the sixteen allotted slots are filled or five years has elapsed, the program will terminate. To wait invites the same result as an intentional decision not to participate. That result contributes to stagnation and decline.

A major reason for the program's current success is the active cooperation of local attorneys in the area. Many want to retire from the full-time practice of law, but recognize their obligation to their clients and do not want to leave them without access to legal services. We are available to visit with these veteran attorneys to explain the specifics of the program and how it applies to their locale.

UNIFIED JUDICIAL SYSTEM 125th BIRTHDAY PROJECT

As I have mentioned, 2014 was the 125th birthday of the State of South Dakota. It was also the 125th birthday of the State's judicial system.

At one point we hoped to restore the Law Library of the Supreme Court to its original splendor as a fitting birthday project. We believe it is the last room in the Capitol open to the public which has not been restored to its original grandeur. The cost of other projects such as the restoration of the stained glass in the Capitol put the Law Library restoration on hold.

The Supreme Court opted for an oral history project. Since 1889, 49 South Dakotans have served as Justices of the South Dakota Supreme Court. Those not on the current court left behind legal opinions but little else other than an eventual obituary. This oral history project provides a snapshot in time for future generations to review and study.

The South Dakota Supreme Court is entrusted by the citizens of South Dakota with being the final arbiter of legal disputes of the state's court system. It literally decides issues which determine liberty and property rights and even life itself. Yet most citizens know little on how those decisions come about or who the five individuals are who make up the South Dakota Supreme Court. For example, very few citizens know that I was a volunteer fireman for twenty years including some of my early years on the Supreme Court. I doubt today many can envision me driving a fire truck down the street. It taught me the value of teamwork, a vital lesson for later leading a judicial system.

1 In 2014, the five Supreme Court Justices participated in this oral history project. They sat
2 for individual oral interviews to allow the public to get to know them as individuals and how
3 they undertake their judicial duties. To add additional historical background, former living
4 Justices of the Supreme Court have been interviewed about their time on the Court. Additional
5 context has been provided by interviews with three veteran attorneys who gave their perspective
6 of the Court's history. This project provides a permanent record of the Court at this
7 125th anniversary date. It also provides information on the Constitutional Revision of the
8 Judicial Article in 1972 and the Court's history since that time. Funding costs were kept down
9 for this project by generous contributions from other public and private entities.

10 **ELECTRONIC FILING**

11 Electronic filing for criminal cases began statewide on January 29, 2014 and statewide for
12 civil cases on June 25, 2014. The use of electronic filing supports our continuing efforts to
13 move toward electronic records. On July 1, 2014 our Clerk of Courts' offices became paperless
14 on a statewide basis. Now courts utilize electronic records to conduct the majority of the courts'
15 business. This allows us to continue to work to allow the public access to case records through
16 electronic means. Currently, the public can access court records through computer terminals
17 located in a courthouse. We will be moving toward electronic web-based access in 2015.

18 What does this mean to the average person? It is a very real possibility that in 2015 an
19 officer will issue a citation and the documents will be electronically filed with the court. The
20 judge will be able to view those documents electronically and issue a decision such as a search
21 warrant, electronically. If a fine is eventually assessed, the individual can simply pay the ticket
22 online.

23 **JUDICIAL ELECTIONS**

24 This year the voters in three South Dakota judicial circuits elected one or more circuit
25 judges from a field of two candidates for each judicial seat where there was a contested race.
26 These non-partisan elections strike a middle of the road approach by having the public selection
27 of judges. Partisan politics is kept out of the process. Justice should not be rationed on the basis
28 of politics.

29 Three members of the South Dakota Supreme Court stood for a retention election. The
30 Justices ran on their record and the voters by a simple "yes" or "no" vote indicated whether each
31 Justice earned an additional term on the Court. A pundit said that the Supreme Court grades the
32 papers of the circuit judges when an appeal occurs. This retention election was an opportunity
33 for the voters to grade the papers of these Supreme Court Justices. All three passed.

34 **JUSTICE JANINE M. KERN**

35 With the retirement of Justice John Konenkamp at the end of 2014, the Governor appointed
36 Circuit Judge Janine Kern to fill that vacancy on the South Dakota Supreme Court. Justice Kern
37 has been a circuit judge in the Seventh Judicial Circuit since 1996. Besides her normal judicial
38 duties, she has participated in numerous boards and commissions dealing with legal and
39 children's issues. She brings to the Court a well-earned reputation for excellence in the
40 performance of her judicial duties. Justice Kern is a welcome addition to our Court.

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